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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,419	08/01/2001	Michael Dufka	M-101	6385
7590	07/21/2004			
Joseph P. Errico 150 Douglas Road Far Hills, NJ 07931				
			EXAMINER PAYNE, SHARON E	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,419

Applicant(s)

DUTKA ET AL.

Examiner

Sharon E. Payne

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 16-19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informality: the phrase "the outer opaque screening member" should be "the outer opaque cylinder" in lines 1-2. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 16, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (U.S. Patent 4,809,145) in view of Irwin (U.S. Patent 1,351,756).

Regarding claim 16, Bennett discloses a first support base (Fig. 1), a light source supported by the first support base (Fig. 1), a second support base (reference number 5) dimensioned to fully encompass the first support base without touching the first support base (Fig. 1), the second base supporting an outer opaque cover completely covering the light source with opaque material to produce darkness (column 2 in lines 20-25 and Fig. 1, reference number 2). Bennett does not specifically disclose an inner translucent shade.

Irwin discloses an inner completely translucent screening member (reference number 4) dimensioned to encompass the light source without touching the light source (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the inner translucent screening member of Irwin so that it is supported by the second base of Bennett to diffuse the light coming from the light source with the opaque shade of Bennett completely covering the inner translucent shade. See column 1, lines 50-55, of Bennett.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade of Bennett a cylinder as suggested in Bennett in column 1, lines 28-35. Since the cylindrical shade is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade a cylinder, since Bennett suggests that the shade may be of any configuration (column 1, lines 28-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the inner translucent shade of Irwin into the apparatus of Bennett to diffuse light coming from the light source.

Concerning claim 17, Bennett discloses the outer opaque screening member comprising a solid member that is dimensioned to encompass the inner translucent screening member (Fig. 1, column 1 in lines 50-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade of Bennett a cylinder as suggested in Bennett in column 1, lines 28-35. Since the cylindrical shade is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade a cylinder, since Bennett suggests that the shade may be of any configuration (column 1, lines 28-35).

Regarding claim 21, Bennett discloses a first support base (Fig. 1), a light source supported by the first support base (Fig. 1), a second support base (reference number 5) dimensioned to fully encompass the first support base without touching the first support base (Fig. 1), the second base supporting an outer opaque cover completely covering the inner screening member to produce darkness (Fig. 1, column 1 in line 25, and column 1 in lines 50-55), wherein when illumination is desired the cover must be withdrawn from the inner member (abstract, Fig. 1, column 1 in lines 50-55).

Irwin discloses an inner completely translucent screening member (reference number 4) dimensioned to encompass the light source without touching the light source (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the inner translucent screening member of Irwin so that it is supported by the second base of Bennett to diffuse the light coming from the light source with the opaque shade of Bennett completely covering the inner translucent shade to produce darkness. See column 1, lines 50-55, of Bennett.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade of Bennett a cylinder as suggested in Bennett in column 1, lines 28-35. Since the cylindrical shade is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the opaque shade a cylinder, since Bennett suggests that the shade may be of any configuration (column 1, lines 28-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the inner translucent shade of Irwin into the apparatus of Bennett to diffuse light coming from the light source.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett in view of Irwin as applied to claim 16 above, and further in view of Balthauser (U.S. Patent 2,853,598).

Concerning claim 18, Bennett does not disclose the outer screening member having panels. Balthauser discloses the outer opaque screening member comprising at least two opaque panels (column 2, lines 14-16), at least one of which is movable with respect to the other (Figs. 9-11), which can be positioned to jointly encompass the inner

translucent screening member and alternatively positioned to reveal at least a portion of the inner translucent screening member (Figs. 7 and 9-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the outer screening member of Balthauser in the apparatus of Bennett to vary further the amount of light escaping from the light source.

Regarding claim 19, Bennett does not disclose the outer screening member having a folding door. Balthauser discloses an opaque folding door that can be closed about the inner translucent screening member and alternatively opened to reveal at least a portion of the inner translucent screening member (Figs. 9-11). (Each opaque panel functions as a door when it is moved.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the outer screening member of Balthauser in the apparatus of Bennett for further varying the amount of light escaping from the apparatus.

Allowable Subject Matter

6. Claim 20 is allowed.

7. The following is a statement of reasons for the indication of allowable subject matter. The prior art fails to disclose an illumination device having a second element supporting an outer translucent screening member covering at least a portion of the outer opaque screening member to enclose that portion of the outer opaque screening member between the inner translucent screening member and the outer translucent screening member.


Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sep


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